

PATENT**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.: 10/614,550
Filing Date: July 7, 2003
Applicant: Robert G. Metzger et al.
Group Art Unit: 3738
Examiner: Christopher D. Prone
Title: ELONGATED FEMORAL COMPONENT
Attorney Docket: 5490-000209/CPA

Director of the United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

INFORMATION DISCLOSURE STATEMENT

Sir:

Pursuant to 37 C.F.R. §§ 1.56, 1.97 and 1.98, Applicant hereby submits an Information Disclosure Statement for consideration by the Examiner.

I. **LIST OF PATENTS, PUBLICATIONS, AND OTHER INFORMATION**

The patents, publications and other information requested to be considered by the Office (except unpublished U.S. patent applications) are listed on Form 1449 attached hereto.

II. **COPIES**

A. ☒ Submitted herewith is a legible copy of (i) each foreign patent; (ii) each publication or that portion which caused it to be listed, other than U.S. patents and U.S. patent application publications unless required by the Office; (iii) each unpublished U.S. application listed below in Section IV (i.e., including the specification, claims, and any drawing of the application, or that portion of the application which caused it to be listed, including any claims directed to that portion), except for such applications filed on or after June 30, 2003, pursuant to the Waiver of the Copy Requirement in 37 C.F.R. 1.98 (OG Notice dated October 19, 2004); and (iv) all other information or that portion which caused it to be listed.

B. ☐ Any patents, publications or other information which are listed on Form 1449 or on the copies of PTO-892, but which are not enclosed herewith, were previously cited by or submitted to the PTO in one of the following applications which has been relied upon for an earlier filing date under 35 U.S.C. § 120:

U.S. Serial Number

U.S. Filing Date

C. ☐ This is a PCT application in the entry of the National Phase in the United States. A copy of the International Search Report is attached for the Examiner's information. The documents listed on the International Search report are listed on the attached Form 1449 for consideration by the Examiner and for listing on any patent resulting from this application. If the International Search report was from the US, EPO, or JPO search authorities, copies of these references should have been supplied to the USPTO under the trilateral agreement and are believed to be in the file of the above-identified application. (MPEP 1893.03(g).)

III. CONCISE EXPLANATION OF THE RELEVANCE (check at least one box)

A. ☒ Except as may be indicated below in (B), all of the patents, publications or other information are in the English language (concise explanation not required).

B. ☐ A concise explanation of the relevance of each patent, publication or other information listed that is not in the English language is as follows (see 37 C.F.R. § 1.98(a)(3)):

1. ☐ See the attached foreign patent office communication from a counterpart foreign application:

2. ☐ English translations are provided:

3. ☐ Other:

C. ☐ The following additional information is provided for the Examiner's consideration.

IV. CROSS REFERENCE TO RELATED APPLICATION(S)

A. ☐ The Examiner is advised that the following co-pending application(s) contain(s) subject matter that may be related to the present application. By bringing this(these) application(s) to the Examiner's attention, Applicant(s) does (do) not waive the confidentiality provisions of 35 U.S.C. § 122.

Serial No.Filing DateInventor(s)V. THIS IDS IS BEING FILED UNDER

A. ☒ 37 C.F.R. § 1.97(b): (check only one box)

1. ☐ within three months of the filing date of a national application other than a continued prosecution application under § 1.53(d) (37 C.F.R. § 1.97(b)(1)). No fee or certification is required.

2. ☐ within three months of the date of entry of the national stage as set forth in § 1.491 in an international application (37 C.F.R. § 1.97(b)(2)). No fee or certification is required.

3. ☐ before the mailing of a first Office Action on the merits (37 C.F.R. § 1.97(b)(3)). No fee or certification is required. In the event that a first Office Action on the merits has been issued, please consider this IDS under 37 C.F.R. § 1.97(c) and see the certification under 37 C.F.R. § 1.97(e) below; or, if no certification has been made, charge our deposit account a fee in the amount of \$180.00 as required by 37 C.F.R. § 1.17(p).

4. ☒ before the mailing of a first Office Action after the filing of a request for continued examination under 37 C.F.R. § 1.114. No fee or certification is required.

B. ☐ 37 C.F.R. § 1.97(c): (check only one box)

before the mailing date of either any Final Office Action under 37 C.F.R. § 1.113, a Notice of Allowance under 37 C.F.R. § 1.311, or an action that otherwise closes prosecution.

1. ☐ No certification; therefore, a fee in the amount of \$180.00 is required by 37 C.F.R. § 1.17(p).

2. ☐ See the certification below. No fee is required.

C. ☐ 37 C.F.R. § 1.97(d):

after the mailing date of either a Final Office Action under 37 C.F.R. § 1.113 or a Notice of Allowance under 37 C.F.R. § 1.311, yet on or before payment of the issue fee.

1. ☐ See the certification below. A fee in the amount of \$180.00 is required by 37 C.F.R. § 1.17(p).

VI. CERTIFICATION UNDER 37 C.F.R. § 1.97(e): (check only one box)

The undersigned hereby certifies that:

A. ☐ each item of information contained in this IDS was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS (See 37 C.F.R. § 1.97(e)(1)). See further statement under 37 C.F.R. 1.704(d) below in section VII, if applicable; or

B. ☐ no item of information contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this IDS (See 37 C.F.R. § 1.97(e)(2)).

C. ☐ some of the items of information were first cited in a communication from a foreign patent office. As to this information, the undersigned hereby certifies that each item of information contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS. As to the remaining information, the undersigned hereby certifies that no item of this remaining information contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this IDS.

VII. STATEMENT UNDER 37 C.F.R. 1.704(d)

The undersigned hereby states that:

☐ each item of information contained in this IDS was cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in 37 C.F.R. § 1.56(c) more than thirty days prior to the filing of this IDS.

VIII. PAYMENT OF FEES (check only one box, if applicable)

- A. ☐ A check in the amount of \$180.00 is enclosed for the above-identified fee.
- B. ☐ Please charge Deposit Account No. 08-0750 in the amount of \$180.00 for the above-identified fee. A duplicate copy of this paper is attached.

Please charge any additional fees or credit any overpayment pursuant to 37 C.F.R. § 1.16 or § 1.17 to Deposit Account No. 08-0750.

The above references are being cited only in the interest of candor and without any admission that they constitute statutory prior art, contain matter which anticipates the invention, or which would render the same obvious, either singly or in combination, to a person of ordinary skill in the art. Furthermore, this Information Disclosure Statement shall not be construed as a representation that a search has been made.

If it is determined that this IDS has been filed under the wrong rule, the PTO is requested to consider this IDS under the proper rule (with a petition if necessary) and charge the appropriate fee to Deposit Account No. 08-0750.

Respectfully submitted;

Dated: Apr 12, 2007

By: Richard W. Warner

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Reg. No. 38,043

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FORM HDP-1449 (Based on Form PTO-1449) PATENT AND TRADEMARK OFFICE INFORMATION DISCLOSURE CITATION (Use several sheets if necessary) Sheet 1 of 3	ATTORNEY DOCKET NO.	SERIAL No.
	5490-000209/CPA	10/614,550
	APPLICANT	
	Robert G. Metzger et al.	
	FILING DATE	GROUP
	July 7, 2003	3738

U.S. PATENT DOCUMENTS						
Ref. Desig.	Examiner's Initials	Document Number	Date	Name	Class/ Subclass	(If appropriate) Filing Date
1.		5,597,384	01-28-1997	Walker et al		
2.		4,281,420	08-04-1981	Raab		
3.		4,336,618	06-29-1982	Raab		
4.		4,491,987	01-08-1985	Park		
5.		4,524,766	06-25-1985	Petersen		
6.		4,759,350	07-26-1988	Dunn et al		
7.		4,979,957	12-25-1990	Hodorek		
8.		4,997,445	03-05-1991	Hodorek		
9.		5,192,323	03-09-1993	Shetty et al		
10.		5,255,838	10-26-1993	Gladdish, Jr. et al		
11.		5,290,313	03-01-1994	Heldreth		
12.		5,326,362	07-05-1994	Shetty et al		
13.		5,344,423	09-06-1994	Dietz et al		
14.		5,383,875	01-24-1995	Bays et al		
15.		5,387,241	02-07-1995	Hayes		
16.		5,395,377	03-07-1995	Petersen et al		
17.		5,405,396	04-11-1995	Heldreth et al		
18.		5,431,660	07-11-1995	Burke		
19.		5,443,518	08-22-1995	Insall		
20.		5,458,645	10-17-1995	Bertin		
21.		5,474,559	12-12-1995	Bertin et al		

Examiner:	Date Considered:
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EXAMINER: Please initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

FORM HDP-1449 (Based on Form PTO-1449) PATENT AND TRADEMARK OFFICE INFORMATION DISCLOSURE CITATION (Use several sheets if necessary) Sheet 2 of 3	ATTORNEY DOCKET No.	SERIAL No.
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U.S. PATENT DOCUMENTS						
Ref. Desig.	Examiner's Initials	Document Number	Date	Name	Class/ Subclass	(If appropriate) Filing Date
22.		5,484,446	01-16-1996	Burke et al		
23.		5,486,180	01-23-1996	Dietz et al		
24.		5,492,671	02-20-1996	Krafft		
25.		5,540,696	07-30-1996	Booth, Jr. et al		
26.		5,549,686	08-27-1996	Johnson et al		
27.		5,059,216	10-22-1991	Winters		
28.		5,148,920	09-22-1992	Walker		
29.		5,192,328	03-09-1993	Winters		
30.		5,308,412	05-03-1994	Shetty et al		
31.		5,562,674	10-08-1996	Stalcup et al		
32.		5,593,411	01-14-1997	Stalcup et al		
33.		5,613,970	03-25-1997	Houston et al		
34.		5,634,927	06-03-1997	Houston et al		
35.		5,693,048	12-02-1997	Stalcup et al		
36.		5,743,915	04-28-1998	Bertin et al		
37.		5,769,855	06-23-1998	Bertin et al		
38.		5,830,216	11-03-1998	Insall et al		
39.		Des.346,979	05-17-1994	Stalcup et al		
40.		Des.365,396	12-19-1995	Hayes		
41.		Des.367,706	03-05-1996	Stalcup et al		

Examiner:	Date Considered:
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EXAMINER: Please initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

FORM HDP-1449 (Based on Form PTO-1449) PATENT AND TRADEMARK OFFICE INFORMATION DISCLOSURE CITATION (Use several sheets if necessary) Sheet 3 of 3	ATTORNEY DOCKET No.	SERIAL No.
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U.S. PATENT DOCUMENTS						
Ref. Desig.	Examiner's Initials	Document Number	Date	Name	Class/ Subclass	(If appropriate) Filing Date
42.		Des.369,863	05-14-1996	Hayes		
43.		Des.372,309	07-30-1996	Heldreth		
44.		Des.373,825	0917-1996	Hayes		

FOREIGN PATENT DOCUMENTS						
Ref. Desig.	Examiner's Initials	Document Number	Date	Country	Class/ Subclass	Translation Yes No
1.						

OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, etc.)						
Ref. Desig.	Examiner's Initials					
1.		NexGen® Complete Knee Solution, Legacy® Knee, LPS-Flex Femoral Component, Zimmer, TP-79-1-3/7 one page x-ray template (2000)				
2.		Ascent™ Total Knee System, Taking Total Knee Replacement to New Heights, Form No. Y-BMT-605/013199/M, 4-pages (1999)				
3.		NexGen® Complete Knee Solution Implant Order Form, Zimmer, June 1999, 16-pages				
4.		Department of Health & Human Services 510(k) for Narrow Ascent Interlock Femoral Components, 39 pages (December 30, 2002)				

Examiner:

Date Considered:

EXAMINER: Please Initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.